

CRM-M-33418-2021 (O&M);
CRM-M-33422-2021 AND
CRM-38715-2021 (O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRM-M-33418-2021 (O&M)
Decided on :21.04.2022

Murari Lal and another

...

Petitioners

Versus

State of Haryana and another

...

Respondents

AND

CRM-M-33422-2021

Smt. Krishna Devi

...

Petitioner

Versus

State of Haryana and another

...

Respondents

AND

CRM-M-38715-2021 (O&M)

Mukat Singh

...

Petitioner

Versus

State of Haryana and another

...

Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

PRESENT: Mr. Yogesh Goyal, Advocate and
Mr. Sanjeev Kumar, Advocate
for the petitioners.

Mr. Munish Sharma, AAG, Haryana.

Mr. Aditya Yadav, Advocate
for the complainant.

VIKAS BAHL, J. (Oral)

CRM-26016-2021 IN CRM-M-33418-2021

Allowed as prayed for.

Corrected copy of the instant bail application is placed on record subject to all just exceptions.

CRM-32126-2021 IN CRM-M-38715-2021

Allowed as prayed for .

Annexures P-8 and P-9 are taken on record subject to all just exceptions.

Main Cases

By virtue of this common order, this Court proposes to dispose of three petitions bearing No. CRM-M-33418-2021 filed by petitioner-Murari Lal and Jaswant, CRM-M-33422-2021 filed by petitioner-Krishna Devi and CRM-M-38715-2021 filed by petitioner-Mukat Singh.

All the petitions have been filed under Section 438 Cr.P.C. for grant of anticipatory bail to the petitioners in case FIR No. 27 dated 10.02.2021 under Sections 420, 465, 468 of Indian Penal Code, 1860 (Section 120-B IPC added later on) registered at Police Station Kosli, District Rewari.

With the consent of all the parties, the case bearing No. CRM-M-33418-2021 is taken as the lead case and thus, the facts have been taken from the said case.

Learned counsel for the petitioner has submitted that in the present case, the complainant Jajwanti Devi alongwith Krishna Devi and Murari Lal had got executed a General Power of Attorney dated

10.12.1997 in favour of Mukat Singh (petitioner in CRM-M-38715-2021). It is further submitted that it was specifically mentioned in the said GPA that the said Mukat Singh would have the right to execute a sale deed, Mortgage deed, gift deed or exchange deed with respect to the land in question. It is argued that the said GPA was a registered document and a perusal of the photocopy of the original GPA (at page 70 of the paperbook) would show that even the original photographs of concerned persons, including the complainant, were there on the GPA. It is further argued that after a period of 19 years, a registered transfer deed dated 19.10.2016 was executed by Mukat Singh on the basis of the said GPA dated 10.12.1997 and the said land was transferred in favour of Krishna Devi (petitioner in CRM-M-33422-2021). It is contended that the same is also a registered document and thus, carries the presumption of truth in the favour of Mukat Singh. It is further contended that even a civil suit has been filed by the complainant for declaration which is pending consideration. It is submitted that the question as to whether the presumption in favour of the registered document could be rebutted or not, would depend upon the quality of evidence which would be laid before the Court in the civil suit. It is also submitted that even in civil proceedings, there is heavy onus on the complainant to rebut the said presumption. It is further submitted that the entire dispute is based upon documentary evidence and thus, the custodial interrogation of the petitioner is not required. All the

petitioners, in pursuance of the interim order dated 02.11.2021, have joined the investigation. Learned counsel for the petitioners has submitted that in fact, on account of the fact that the petitioners had financially helped the complainant, the complainant had executed the GPA in favour of Mukat Singh with the understanding that the land in question would stand transferred in favour of Mukat Singh and his family members.

Learned State counsel, on the other hand, has opposed the present application for anticipatory bail.

Learned counsel for the complainant has submitted that the complainant is an old person and since the accused persons were her close relatives, thus, she was under the impression that a Special Power of Attorney was to be executed only for the purpose of Court cases with respect to the land in question and when she learnt about the fact that the document which had been executed was a GPA giving Mukat Singh the right to sell the land in question and further a transfer deed dated 19.10.2016 and even a subsequent sale deed dated 03.02.2021 was executed by the accused persons, the complainant realized that the document which had been got executed from her was on account of undue influence and immediately thereafter, the complainant got the present FIR registered and also filed a civil suit, challenging the said registered document, which is stated to be pending. It is further contended that the close relatives of the complainant have duped the

petitioner of her land.

This Court has heard learned counsel for the parties and has perused the paperbook.

On 10.12.1997, a registered document was executed by the complainant alongwith Krishna Devi and Murari Lal in favour of Mukat Singh in which the power to sell, exchange and gift the land in question had also been specifically granted to Mukat Singh. After more than 18 years, a registered transfer deed was executed by Mukat Singh in favour of his mother Krishna Devi on the basis of the said GPA which had not been cancelled till the said date. The said GPA also carries the photographs of the said Jajwanti Devi and is also a registered document, thus, carrying the presumption in favour of Mukat Singh. The present FIR has been registered on 10.02.2021 i.e. after a delay of 23 years. A civil Suit has also been filed challenging the said registered documents and the said civil suit is pending consideration. The entire dispute is based upon documentary evidence and the petitioner has joined the investigation and he is not involved in any other case. The question as to whether the said documents have been executed on account of undue influence or not would be adjudicated upon during the course of trial.

Keeping in view the abovesaid facts and circumstances, the present all three petitions are allowed and the interim order dated 02.11.2021 is made absolute.

However, nothing stated above shall be construed as an expression of opinion on the merits of the case and the trial would proceed independently of the observations made in the present case which are only for the purpose of adjudicating the present bail application.

(VIKAS BAHL)
JUDGE

April 21st, 2022
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Whether reasoned/speaking?	Yes/No
Whether reportable?	Yes/No